THE Long Parliament REVIVED:

OR,

An Act for Continuation, and the Not Dissolving the *Long Parliament* (call'd by King CHARLES the First, in the Year 1640.) but by an Act of Parliament.

With Undeniable Reasons deduced from the said Act to prove that that Parliament is not yet Dissolved.

ALSO,

Mr. WILL. PRYNNE his five Arguments fully answered: whereby he endevours to prove it to be Dissolved by the KINGS Death, &c.

By *Tho. Phillips* Gent.
A sincere Lover of his King and Countrey.

LONDON,

Printed for the Author, and are to be sold at the Castle and Lion in St. *Paul's* Church-yard.
M. DC. LXI.

THE
Long Parliament
RESVIVED:

OR,

An Act for Continuation, and the Not Dissolving the Long Parliament (call'd by King CHARLES the First, in the Year 1640.) hereby in Actor Parliament.

With Undeniable Reasons deduced from the said Act to prove that that Parliament is not yet Dissolved.

ALSO,

Mr WILL. PRYNNE his five Arguments fully answered: whereby he endevours to prove it to be Dissolved by the KINGS Death &c.

By Tho. H. Sir Gent.

A sincere Lover of his King and Country.

LONDON,

Printed for the Author, and are to be sold at the Calle in Lion-Ye St. Paul's Church-yard.

M. DC. LXI.

Anno 17. Caroli Regis.

An Act to prevent inconveniences which may happen by the untimely adjourning, proroguing, or diſſolving of this preſent Parliament.

Whereas great Sums of money muſt of neceſſity be ſpeedily advanced and provided for relief of his Majeſties Army and people in the Northern parts of this Realm, and for preventing the imminent danger this Kingdome is in, and for ſupply of other his Majeſties preſent and urgent occaſions, which cannot be ſo timely effected, as is requiſite without Credit for raiſing the ſaid moneys: Which Credit cannot be obtained uneſs ſuch obſtacles be firſt removed, as are occaſioned by fears, jealouſies, and apprehenſions of divers his Majeſties Loyal Subjects, that this preſent Parliament may be adjourned, prorogued, or diſſolved, before Juſtice ſhall be duely executed upon Delinquents; publick grievances redreſſed; a firm Peace between the two Nations of England and Scotand concluded, and before ſufficient proviſion bemade for the repayment of the ſaid moneys ſo to be raiſed. All which the Commons in this preſent Parliament aſſembled having duely

considered, do therefore humbly beseech your most excellent Majesty, that it may be declared, and Enacted.

And be it Declared and Enacted by the King our Soveraign Lord, with the assent of the Lords and Commons in this present Parliament assembled, and by the Authority of the same, that this present Parliament now assembled shall not be dissolved unless it be by Act of Parliament to be passed for that purpose. Nor shall be at any time or times, during the continuance thereof, prorogued, or adjourned, unless it be by Act of Parliament to be likewise passed for that purpose. And that the House of Peers shall not at any time, or times, during this present Parliament, be adjourned unless it be by themselves, or by their own Order: And in like manner, that the House of Commons shall not at any time, or times, during this present Parliament, be adjourned, unless it be by themselves, or by their own Order. And that all, and every thing, and things, whatsoever done, or to be done, for the adjournment, proroguing, or dissolving of this present Parliament, contrary to this Act, shall be utterly void, and of none effect.

The

The Long Parliament revived.

TO the end the Peace of this Nation may be established upon a firm and lasting Foundation, and that after one shipwrack, hardly escaped, we run not blindfold again upon a more fatal, and irrecoverable Rock of confusion: The Author of this small paper (out of tender compassion to his native Country, and with all humble respects of due allegiance, and honour to his Royal Majesty that now is) hath thought fit (with the premised Act of Parliament) to offer some few Arguments to the World naturally flowing from the authority and reason of it: Which if timously harkened to, may yet prove a healing remedy against the sad breaches of this shattered Kingdome: and prevent those other mischiefs which the obstinacy of injudicious and self-willed persons will inevitably bring upon themselves and us. And if convincing reason may bear the sway in this perverse Age, wherein every man would make his petty private designs to be his Law, rather than common equity, or the establish'd Law of the Nation, he doubts not of the desired success he aims at, with Gods blessing, in this ensuing Discourse.

That the safety and happiness of this Kingdom lies in Parliaments rightly constituted, and in the preservation of their just and lawful Priviledges, I suppose there are none, of what different judgements soever in other things, who are Subjects of this Nation, and of sober principles, but will readily grant it. And if so, the contrary thereunto will then without doubt as easily be concluded.

Which Maxime being yielded in reference to other Parliaments, it must by proportion hold as true in relation to the Long Parliament call'd by the late King *Charles* the first, of blessed memory,

memory in the year 1640. Whose being and Legal Authority is still so visibly existent by vertue of the forementioned Act, that when the Subjects of this Nation have seriously considered of it, they will doubtless see they have no reason to hold themselves safe in their Lives, Liberties, and Estates, till it have made provision in that behalf, and it be legally dissolved according to the tenour of the said Act by Act of Parliament for that purpose.

And therefore, being that so great a difficurity to the Subjects and the Peace of the Kingdome is incumbent hereupon (as who doth not evidently perceive it, in case that Parliament is yet in its legal force and being) how much doth it concern every Subject of this Nation to be groundedly satisfied in this particular, by a solid answering of those objections that seem to militate against the verity of this assertion: That mens minds may be setled, together with the Peace of the Nation upon a sure Foundation of Law and righteousness; and we may not, like the waves of the Sea, be still fluctuating too and fro in doubts and uncertainties by the divers winds of mens contrary judgements and opinions, to the continual hazard of our dearest concernments.

To evidence the still legal being of that foresaid Parliament, the Act speaks sufficiently for it self in plain and expres's tearms: Yet to make it more clear, these following Arguments from the Act it self and the Title of it do more apparently evince it.

1. To begin with the Title: Which is, *An Act to prevent inconveniencies that may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament*: Which inconveniencies are specified in the following preamble of the said Act, whereof chiefly one is this. *Least Credit should not be obtained for raising of Monies for relief of his Majesties Army, and people in the North, and for supply of other his Majesties present and urgent occasions through the continued fears of the Subjects, lest the Parliament may be adjourned, prorogued, or dissolved, before sufficient provision be made for repayment of the said monies to be raised.*

In which words there are two things principally to be considered in reference to the intent and meaning of this Act, why it was made:

First, For the obtaining of Credit, in order to the raising of considerable Sums of money for supply of the Kings, and Kingdoms

doms great necessities: which could never have been done, (as by the Act it self is supposed) had not this Act been made: It being the onely ground and foundation of encouragement for the Credit which was to be given in order to the raising of the said monies; and did accordingly effect it.

Secondly, The Parliament could not without this be in any secure condition to make provision for the repayment of the said money so to be raised, in regard that through defect of such an Act, the Parliament might be in continual danger to be untimely dissolved, (and by the clear scope of the Act, 'tis accounted an untimely dissolution, if dissolved before the said provision be made) therefore the dissolution of the said Parliament before such provision made for repayment of the said moneys, which is not yet done, is expresly contrary to the true meaning and intention of this Act.

And if this Act were made purposely to prevent the untimely dissolution of the Parliament, (as it stands expres in the Title) then it cannot but have respect to the Kings Death as well as to any other means of untimely dissolution: The Parliament well knowing the Kings life was as uncertain, yea, in some respects more uncertain than the life of other men: And therefore could not choose but so understand it, if they intended this Act to be any security for the moneys borrowed, or to be borrowed upon their Credit.

Secondly, In the substance and body of the Act 'tis delivered in expres terms, *That this present Parliament shall not be dissolved, but by an Act of Parliament.* Whence it follows, that if not dissolvable, unless by an Act of Parliament, then it is exclusive to all other wayes and means of dissolution (as the interruption by armed violence, the forcible omission of dayes of adjournment, the violent, or natural death of the King) or whatsoever else might be done or have happened legally to dissolve it, had not this Act been made, or constituted.

Thirdly, & lastly, To make all clear, without any exception, in the close of the said Act it is expressed, *That all, and every thing, and things whatsoever done, or to be done, for the adjourning, proroguing, or dissolving of this present Parliament, contrary to this Act, shall be utterly void and of none effect.* Which cause you

see

see looks backward, and forwards in reference to what soever had a legal power and tendency before this Act to dissolve the Parliament. Against which this Act hath now fully provided, that neither what hath been done for the time past, nor what soever shall be done for time to come, shall dissolve this parliament, excepting an Act of the said Parliament. Whence I argue, That all those things that otherwise legally would or might have dissolved this Parliament, had not this Act been made, have no force or efficacy to dissolve this, but onely an Act of this present Parliament. All other Parliaments having no legal capacity till this be legally dissolved: unless it be granted that two Parliaments may have both of them legal capicity at one and the same time. Which I believe there are none so absurd as to aver; no more, then that two Kings may have a legal capacity at one time in the same Kingdome.

But because there are divers objections, that seem to oppose the premises; and the legal being and capacity of the said parliament; I shall endeavour to answer them as strongly, and yet as briefly as I may to every ordinary Readers understanding.

See his true and perfect narrative of what was done and spoken by and between Mr. *Prin* and the old, and newly forcibly secluded members, beginning fol. 24. and so forwards, Printed in the year 1659.

The first, and grand Objection of all is the death of the late King that summoned this parliament in the year 1640. and is argued by Mr. *Will. Prin.* Because, saith he, *it hath been frequently resolved by Parliaments themselves, the reverend Judges, and our Law Books, by King* Charles *his own Declaration, and his Judges, and Council, that the deposition and death of the King doth actually dissolve the Parliament* &c.

To which I answer by way of Concession, that the Death of the King doth legally, or according to Custome, dissolve a Parliament that is only call'd and constituted by the Kings Writ; but not a parliament constituted and confirmed by an Act of the three Estates. Let Mr. *Prin*, or any other Lawyer shew me any Law or precedent to that purpose, & I will presently yield the Cause.

If Mr. *Prin* would have spoken home to this Case, he should have made it appear where, or when it had been resolved by parliament, the Judges, and our Law Books, &c. that in case of an Act of Parliament made for the Session, and continuance of

a Parliament, till they should dissolve themselves by an Act, that such a Parliament hath been, or shall nevertheless be dissolved by the Kings death, which it is believed he will find a very hard task to prove.

Secondly, He objects, *the Parliament is no standing Court, sitting at certain seasons by positive Lawes, but summoned and constituted by the Kings Writ of Summons, and Royal Prerogative, when, and where he pleaseth, and adjourned, prorogued and dissolved by his Writ alone in point of Law*, &c.

I answer again, by way of Concession, that Parliaments, according to their wonted and by-past Customes, were no certain Courts, sitting at certain seasons by positive Lawes. But yet may be made such by Act of the three Estates. Witness the Triennial Parliament.

And further, By an extraordinary grant of his late Majesty, this Parliament was made a standing Court to sit constantly by a positive Law, till they should please to dissolve themselves. He having been pleased by the said grant, for the better security of his Subjects, to wave his Royal Prerogative and power of dissolution, and to give his consent for the nulling of all other meanes tending thereunto.

And for what Mr. *Prin* intimates further in the said Objection: *That because all Writs of Summons are actually abated by the Kings death, as well as all other Commissions, and Patents of all Judges, Justices*, &c. *That therefore this Parliament must needs be dissolved.*

I answer: That doth not at all follow, till he can make it appear, that there is no more validity in an Act of Parliament of the three Estates, than there is in a meer Writ of Summons, or a Commission of Patent granted only by the King: For though this Parliament was summoned by the Kings Writ, yet 'tis manifest, its continuance and confirmation did not at all depend upon that (for then he might still have dissolved it when he pleased) but upon the Act of the three Estates, who had established it by Law, and so was now no more dissolvable by the Kings death than any other Statute Law, or Act of Parliament whatsoever. And therefore is not depending on so fickle a thing as a Writ of Summons, or a Patent, or Commission

given the Judges, and which the King may take away and repeal again at his own pleasure.

And to illustrate this more by an instance, I shall desire to ask Mr. *Prin* this Question. Put case that there are certaine urgent necessities (as before specified in the Act) that the Parliament hath of great Sums of Money for preserving the Peace of the Kingdom. This money they must take up upon their Credits: But they see no wayes how to raise, or repay it, unless their Session be continued for seven yeares. Therefore to get Credit for raising the said Money, and time to reimburse, or give security to the Lenders, they obtain the Kings consent to an Act for their continuance during the said term (with this Proviso inserted) though the King by any accident should happen to die before the said security were given, or the moneys paid. Whether doth the Parliament in this case continue in force and efficacy after the Kings Death, or is it then actually dissolved?

If Mr. *Prin* grant it a Parliament in force after the Kings Death upon this consideration (as I conceive he cannot deny it) then 'tis apparent, that 'tis not the Kings Death barely that doth of it self dissolve a parliament, *viz.* I say, a Parliament, stablished by a Law: and consequently then not this Parliament, the reason being alike for the one as for the other.

But if he shall aver, (which to me is incredible) that notwithstanding such an Act, yet by the Kings death 'tis legally dissolved. Then it will necessarily follow, that Parliament security (which was ever looke upon till now as inviolable) is most dangerous, and of all others least to be trusted, and the Subjects had need be warned to take heed of it; seeing it must wholly depend upon so uncertain a thing as the Kings Life; which as it throwes no small dishonour upon that high Court, So it will be no little prejudice to publike emergencies: For if the King die half a year after the Moneys borrowed, and before the security be given (and he hath no surer or longer a lease of his life than other men) all the said moneys must absolutely be lost, and so the Subjects defrauded: No future Parliament being bound to make good the Acts and Deeds of a Former, further than they will or please themselves: And it is to be wisht,

that

that the Kingdom may not now too sadly have experience of it.

Thirdly, Mr. *Prin* objects, *the Kings name in which the Writs for Election are issued forth: That because they go out in the name of the King reigning, and so calls the persons elected to advise with him personally; and the Parliament to be convened is call'd his Parliament, and it is to consult of the arduous businesse of the Kingdom concerning him, &c. Therefore when the King dies who call'd the Parliament to advise and consult with himself, the Parliament must necessarily be dissolved, unlesse they could be supposed to consult and advise with him of the weighty affaires of his Kingdom after his decease.*

To this I answer first, That though the Writs of Summons run, to consult with the King personally or by name, yet they say not, to consult with him only, and so are not so exclusive (having respect to the reason and equity of the Law) but that the same Parliament may also consult with his Successor, if the Peace and safety of the Kingdom do require: Granting this Maxime to be undeniably true, that the safety of the people is the supream Law.

And though the Parliament summoned by the Kings Writs be called his Parliament, yet his death doth no more vacate it (being established by Law) than it doth other Lawes by the same King made, which are most properly call'd his Lawes, because enacted with his personal consent: and yet we know that they are not so his, but that they are also the Lawes of his Successors, and are so commonly call'd.

Besides, By constituting the Parliament to dure till they dissolve themselves by an Act, the King virtually waved the authority of his Writs of Summons, in which Writs the Parliament is expresse to be called to consult with him by name. No such thing being in the least said or expresst in the Act by which this Parliament is now confirmed to continue, &c. Therefore it matters not, neither is it at all to the purpose in this case, how, or in what name the Writs of Summons, whereby this Parliament was first called, were issued forth; Forasmuch as this Parliament consists no longer by any authority derivative from those Writs, (that Foundation being wholly taken away) but

only by Act of the three Estates, as is evident in that the King could not now dissolve it by his personal Authority any more. And if his personal Authority, he being living (which is affirmative) could not dissolve it: then his death, which is but negative, or a cessation of the influence of his personal Authority, can much less do it.

And farther, by way of interrogation I would ask Mr. *Prin*, Whether he will grant any more priviledge (in the case of the Kings Death) to a Parliament stablished by a Law, then he will do to a Parliament only call'd and constituted by the Kings Writs, (between which he cannot surely but say there is a very wide difference.) And if he yields the priviledge doth excel (as he must needs) on the side of that Parliament that is established by a Law: In what sence can he conceive it to be, as the case here put, unless by the duration of its Authority after the Kings Death who call'd it: Of which priviledge the Parliament only constituted by the Kings Writs comes short, and fails, as before acknowledged, by the Kings Death.

And I would fain know what reason there is, that a strained exposition of a Statute Law as this is (that this Parliament should be dissolved by the Kings Death) should take place against the expres literal sence of it, which is (that it shall not be dissolved, but by an Act:) When as the strained sence also is evidently dangerous, unsafe, and prejudicial to the publike, but the literal exceeding beneficial.

The calling of Parliaments, in this or that Kings name, to consult or advise with this or that King, these are but circumstantial things, and done for orders sake, and nothing of the substantials and essence of the Government and kingdomes welfare. And therefore if Parliaments, call'd in this or that Kings name, to advise with this or that King, should continue in force (though there were no Act for it) after this or that Kings death, there were no danger or inconvenience in it (how much lesse when an Act, as now, implicitely passed to that purpose) but rather the contrary. They may consult with as much safety and advantage to the kingdom with the Successor, as they did with the deceased King.

But to dissolve Parliaments rashly and untimely may throw

throw a well-setled Kingdom into very great and hazardous difficulties: And how sad a thing were it, and how contrary to the general rule of the peoples safety (which in the Government of a Nation ought to be valued before any thing, and is the end of Government) if for circumstances the general welfare and Peace of the kingdom must be hazarded.

Fourthly, as to what Mr. *Prin* objects concerning *a man by his Will or Deed, or the King by his Commission, or the Parliament by special Act and Order authorizing and impowring any three persons joyntly to sell Land, give Livery and Seisin, execute any Commission,* &c. *and that in case any of them die, the two survivers jointly, or severally can do nothing; because their Authority and trust was joynt and not several,* &c. Applying this to the Parliament, *which being* (as he now expresseth it) *a Corporation compacted jointly of the King, Lords, and Commons House, and three Estates, that therefore the Death of the King necessarily dissolves it notwithstanding this Act.*

I answer, This doth no more prove it than any of his former Arguments. For this similitude doth not hold proportion, nor come up to our present Case.

For we have not here to do with one Estate or more that hath absolute power in it self (and intends to execute it) to constitute other persons for any office or trust, as a single person, *&c.* that makes a Will or Deed doth constitute three or more persons in trust for the execution of his Will or Deed, whose joynt power being expresst in the said Will or Deed, it necessarily failes upon the death of any one of them, because jointly and not severally entrusted.

But with a Parliament, *Who have voluntarily engaged themselves* upon a trust and Credit received from the people for their security, with the consent of the King making a Law to preserve their Session, *and establish their own Authority* against all meanes of their untimely dissolution *till they had honourably discharged their trust*, and given security and satisfaction to those that gave them Credit: which nothing concerns any Power or Authority to be given to others, whether three or more persons (according to Mr. *Prins* instance) to be executed jointly, wherein a failer may be through any one of their deaths.

But

But becauſe there ſeemes ſomething ſtill to be anſwered to this Objection in reference to the conjunctive power of the Parliament conſiſting of three Eſtates. Therefore this alſo is fully reſolved in the following anſwer to what Mr. *Prin* intimates concerning the Kings being a part of the Parliament Who ſaith,

That becauſe the King is a part of the Parliament: Therefore if the King dies, the Parliament muſt needs be diſſolved.

To which I anſwer, That the King is rather a part of the Parliament in his Politick than in his perſonal capacity, which is alwayes ſubject to death, but his Politick never. With this agrees that famous Lawyer Sir *Edward Cook*, (ſee the third part of his *Inſtitutes*, Chapter the firſt) where ſpeaking of the High Court of Parliament, and of what perſons it conſiſteth, ſaith in the firſt place, and in expreſſe words: That it conſiſts of the Kings Majeſty ſitting there, as in his Royal Politick capacity, *&c.* And if ſo, then the Parliament dies not in all caſes when the King dies: (and if this holds good in any caſe, then ſurely in caſe of an Act to that purpoſe.) For though his perſon be dead, yet his Royal Authority lives, as is ſufficiently evident by the Force and Authority of all our Lawes till repealed by Act of Parliament.

But beſides, it may thus farther be argued clearly. The Members of the two Houſes of Parliament, though many of them die (as oft-times it comes to paſſe, and 'tis poſſible they may all die by degrees before the Parliament riſe) yet the Parliament is not diſſolved, becauſe they are not now the very ſame individual perſons that were choſen firſt by the Kings Writ of Summons. 'Tis ſufficient that there have been new Writs iſſued forth from that Houſe, or Eſtate of Parliament whereof they were Members, whereby new Elections, *&c.* have been made, and ſo other Members returned to ſupply the places of the dead ones. And if this be good in the caſe of the two Houſes of Parliament, *&c.* (which no man that underſtands Law, and the uſage of Parliament will deny) then it is much more good in the caſe of the Kings Majeſties Perſon: Whoſe Royal Eſtate and Authority is ſo evident, that it is a declared, undeniable Maxime in our Lawes, He never dies. So that what

new

new Writs do legally for ſupply of the places of the dead Members to continue the Eſtate and Authority of the two Houſes of Parliament: that, and much more eminently the Kings immediate ſucceſſion to the Crown after his Fathers, or Predeceſſors death doth do, by vertue of his Royal birth-right and Title of Inheritance. There being this grand difference, between Members of Parliement dying, and the King. They ſo die, that their Authority cannot be revived, but by new Elections, or Writs of Summons. But the King ſo dies, that his Authority ſtill lives by immediate ſucceſſion. Whence it is that the Royal Seat is never vacant, that there ſhould be a failer to make good the Royal Actions of the Predeceſſor. And thus the third Eſtate in Parliament alwayes Living, *the joynt power ſtill continues*, and ſo there is no neceſſity the Parliament ſhould diſſolve, as Mr. *Prin* affirms, due circumſtances and actions being weighed, and the neceſſities of the kingdome well conſidered.

Fifthly, Therefore by what hath been ſaid already, Mr. *Prins* fifth and laſt Argument muſt needs be out of doors, which is this, *That becauſe the end of Parliaments is to enact new Lawes, and repeal others, &c. which cannot be done but by the Kings aſſent: And this Parliament being to be diſſolved by an Act, and an Act being now impoſſible to be made by that King for the diſſolution of it, he being dead; therefore his Death muſt needs diſſolve the Parliament notwithſtanding this Act.*

I anſwer in the Negative, In no wiſe. For though he be dead, as aforeſaid in his perſonal, (which Mr. *Prin* ſeem to anſwer too weakly in his following objection) yet not in his Politick capacity. And therefore if the dead King cannot enact Lawes by the Parliament, yet his Succeſſor can, who comes immediately to the Crown after his Fathers death. And as hath been ſhewed, 'tis no wayes inconvenient, but may many waies be advantagious to the Publike; That ſhould the King chance any wayes untimely to be taken away, the Parliament ſhould continue after the Kings death. Whoſe death if it ſhould neceſſarily, as Mr. *Prin* affirms, diſſolve the Parliament; ſo untimely a diſſolution, as the caſe might ſtand, might prove very dangerous, and pernicious to the Kingdom.

Beſides,

Besides, The Act doth not limit the Parliaments dissolution as lawfull only, if it be done by an Act of that King then living, when the Act was made: But in the general it limits it to an Act of Parliament: that it shall not be dissolved but by an Act of Parliament. And why the Predecessors authority and consent should not be as binding to his Successor in this case, till so dissolved, as in case of any other Law made with his consent, I would very gladly know a solid reason for it: Being that to all intents and puposes an Act for confirmation, or dissolution may be as virtual and efficacious without any prejudice by the consent and authority of the successor, as of the Father.

And further, the Act is herein also expresst, that by no other way or meanes, *but by an Act of Parliament, it shall be dissolved.* Which being it cannot be done by the dead King, but may be done by the Successor, it ought so to be dissolved, or else it must and doth by vertue of this Act still remain legally in full being and authority.

Sixthly, As to what may be objected concerning the dissolution of this Parliament by an Act, when the secluded Members were lately admitted. The Argument is so weak, that I thought wholly to have omitted the least mention of it. Yet in regard it is so objected by some, who seem to receive satisfaction by it, and there to acquiesce, I shall give this answer in brief to it.

First, That at the best that was but an Act (so called) of the House of Commons; and so consequently far short of the authority of an Act of Parliament, or any legal pretence of it: which only consists of King, Lords and Commons. And therefore by any such appelative Act, this Parliament can no wayes be dissolvable.

And further, The utmost authority that the House of Commons hath given them by the foresaid Act (for the continuation of this Parliament til they dissolve themselves by an Act) is but to adjourn themselves by an Order of their own House, as is expres in the said Act. By which 'tis evident, they have no power to dissolve themselves: much less, by any Act they can do to dissolve the Parliament.

And here it is worth the observing, (before I pass over this

Act

Act of the House of Commons, whereby it was endeavoured to dissolve the Parliament) That in their judgements and consciences there was need of an Act to dissolve the Parliament: And therefore by this Act of theirs they did implicitly grant, that before the passing of the said Act the Parliament was not then dissolved: (and so consequently did acknowledge it not to be dissolved by the Kings Death, which happened many years before,) and if not dissolved by the Kings Death: then much less by the said Act of the House of Commons, (which carries not the least shadow of legal Authority with it, as aforesaid, for the dissolution of it) and therefore by the judgement of the said House, rightly understood, 'tis still legally in force and being.

But because some do Object, that in regard the Lords spiritual (to wit) the Bishops, were outed the House of Peers before the passing this Act for continuation of the Parliament, whereby their Votes and Consents were never had in the Case, that therefore it was an illegal Act, and so fell void in it self.

I answer briefly, That the Abbots and Priors (29. in number, who were formerly Lords of Parliament, and held *per Baroniam* from the King, and had their Seats and Votes in the House of Peers as well as the Temporal Lords) were dissolved in the Reign of King *Henry* the 8th. And yet all Parliaments since, with all their Acts, have been held for Legal and Authentick without the least question or contradiction of their Authority, and therefore is as little to be scrupled here in our present Case, which is the same; The Bishops Privilege and right to sit in Parliament being also null and made void, as well as theirs by Act of Parliament. Whereunto much more might here be said to this purpose, but that I would not be tedious.

See Sir *Edw. Cook* in his third part of Instit. of the High Court of Parliament, how the Lords give their Voyces, Pa. 35.

Seventhly, I have but one word more, which answers most fully and unquestionably all Mr. *Prins* Objections at once, or what else may be said for the dissolution of this Parliament by the Kings Death. And that is taken from the supream legislative authority under God, that the three Estates, *viz.* King, Lords, and Commons, legally called, have over all persons and Causes in the whole Nation: By vertue whereof they have

power to do the highest actions the Nation is capable of, though it be even to the dismembring of the Parliament it self, and dissolving a considerable part of it, or altering any other Fundamental Constitutions they please, so they see it necessary for the publike good (as particularly in the Case of the Bishops, call'd the Spiritual Lords, and by some affirmed to be the third Estate in Parliament, who nevertheless have been excluded by an Act of the King, Lords and Commons, from their ancient right of sitting and voting in Parliament, when in their wisdoms their Session there appeared hurtfull to Church and State.) For who may question or controul the Actions of a lawful Parliament, while none in the Kingdom can so much as pretend to be above them. And if their authority be of so large an extent, even in matters of greatest weight and moment; then much more in things of far inferiour, and much less concernment, as is the Confirmation of a Parliament to continue after the Kings death who call'd it, if the three Estates shall see good to pass an Act, as now they have done to that purpose, (implicitly, though not in expres terms) the King hapning to die before it hath been dissolved by an Act of Parliament, as by the three Estates hath been firmly enacted, it should be so dissolved, and no otherwise.

See Sir *Edw. Cook* the third part of his Institutes of the High Court of Parl. of the power and Juridict. of the Parl, fol. 36. who saith, That the Power and jurisdiction of the Parl. for making of Laws, in proceeding by Bill, is so transcendent and absolute, as it cannot be confined either for causes or persons within any bounds, &c.

By this time it may be hoped the legal being and Authority of the Long Parliament is sufficiently evident; The truth whereof being so clearly proved both by Law and Reason, how much doth it unfold to us the sad and dangerous estate of the Kingdom, whilest under the Constitution of such powers as neither in Estate, Liberty or Life, (though otherwise of good Inclinations to the publick) can give the Nation any legal security.

For though many excellent things have been done by the singular wisdom of this present Parliament, now sitting, that are of special tendency in themselves for the good and safety of the Nation through his Majesties most gracious condescention, for which we have infinite cause to bless God; Yet herein the great unhappiness; That whilest their Authority is not legally founded, the Nation can promise themselves no assurance for the lasting enjoyment of those benefits and securities they

Vide Postscript

have

have given it, being, 'tis to be feared, and too juſtly, they fall void of themſelves by vertue of the ſaid Parliaments illegal Policy and Conſtitution.

Therefore how much were it to be wiſhed, that the Supream Legiſlative Authority of the Nation might again revert into the Channel by which the Peace and Settlement of the Nation, through his Majeſties moſt Gracious Influence, might durably, and without queſtion, be provided for, and preſerved.

In reference to which I ſhall humbly take the boldneſs to offer it as a weighty and ſerious conſideration to this preſent Parliament now ſitting, whether they ſhould not do well (for their own ſafety as well as the Nations) to adviſe his Majeſty in this particular; (They only having the priviledge and opportunity now effectually to do it) their caſe in point of ſafety or danger being the ſame with the reſt of the peoples, when once they ſhall come to be diſſolved.

But now here, becauſe the fears and ſcruples which at firſt apprehenſion are apt to ariſe in the hearts of the Generality of the Kingdom, may ſeem a great Obſtruction in Prudence againſt the return of that Parliament to ſit again, in reference to the danger of perpetuating of it, Who therefore may be ready to ſay, By ſo doing we may inſlave King and Kingdom to ſuch a yoak of Bondage, as we may never be able to break off our own necks, or the necks of our Poſterity any more.

I ſhall give hereunto this cloſing anſwer; That the ſcruple is very rational; and though ſuch a thing there is a poſſibility they might do or attempt (though very improbably effect) if they ſhould ſo wickedly abuſe their truſt; yet thoſe fears will ſoon be removed from wiſe and diſcreet perſons, if we do but ſeriouſly conſider, That the far greater number of the Members ſurviving are of the ſecluded Party, who were thruſt and forced out of the Houſe for their Loyalty to the King: Or of thoſe that withdrew themſelves upon the offence given by occaſion of the Armies violence againſt King and Parliament; and have been the chief Inſtruments of his preſent Majeſties happy reſtoration. And therefore, being perſons ſo qualified, we may eaſily believe they will not be very willing to draw ſuch an *Odium* upon their unſtained Credits, as will inevitably follow,

(beſides the further miſchiefs will be apt to enſue to themſelves, and the Nation by renewed diſcontents) ſhould they go about to ingroſs the Authority of the Nation any longer in their own hands than will be neceſſary for publick ſafety with his preſent Majeſties Approbation? Who for further ſecurity againſt thoſe fears may eaſily ſummon them together by his Proclamation to *Whitehall*, or where elſe he pleaſeth, before their Seſſion again in Parliament, and there receive their perſonal promiſe, and ingagement to confirm the Acts of this preſent Parliament, and to prepare a Bill the firſt thing they do at a certain time to be agreed on betwixt his Majeſty and them to diſſolve themſelves, and for his Majeſties iſſuing out Writs for the ſummoning of a new Parliament, that ſo things may ſweetly return again without violence or injury done either to his Majeſties Prerogative, or his Peoples Liberties into a regular and legal way of proceeding to the general ſecurity and ſatisfaction of the whole.

POSTSCRIPT.

BEcauſe there are great and general diſſatisfactions concerning this preſent Parliament, ſo call'd, now ſitting, in queſtion of its legal right and authority,, (being the Authors deſign is nothing elſe but the peace and ſecurity of his native Country,) and a thorow healing of our wounds and breaches) he humbly deſires further to offer theſe few following particulars to the grave and ſerious conſideration of thoſe that are more learned in the Laws, in hopes that ſome eminent perſon of that profeſſion will give a ſolid and judicious reſolution to them.

Firſt, Sir *Edward Cook* in the third Part of his Inſtitutes, writing of the High Court of Parliament, and of what perſons that Court conſiſts, ſpeaking of the Temporal Lords, as Dukes, Marqueſſes, Earls, Viſcounts, and Barons, who ſit there by reaſon of their dignities which they hold by deſcent or Creation, ſaith, that every one of theſe being of full Age ought to have a Writ of Summons *ex debito Juſtitiæ*.

Where

Where note, two things are required to the legality of their Seſſion in Parliament.

Firſt, That they be of full Age. And if that be a qualification legally required of Peers (for it will eaſily be granted to be moſt abſurd and unjuſt, that they that have not power by Law (as all Infants under age have not) to diſpoſe of any part of their own Eſtates, or to make one legal act to that purpoſe) that ſuch ſhould have a ſhare in the ſupream power to judge, vote, and diſpoſe of the Eſtate & Authority of the whole Kingdom.) I ſay then by rule of proportion, that it is a qualification as neceſſarily required of the Commons upon the ſaid conſideration. And it were happy for this Nation therefore that it were better looked after for the future, that ſo thoſe miſchiefs may be prevented which too often enſue to the Publick by bringing ſuch green heads into ſo wiſe and grave a Councel.

Secondly, 'Tis required to their legal Seſſion in Parliament, that the ſaid Lords have Writs of Summons; which theſe now ſitting in this preſent Parliament never had.

Next, The ſaid Sir *Edward Cook* in the forecited place ſaith, that the Commons, which he calls there the third Eſtate of the Realm, conſiſting of Knights of Shires for Counties, Citizens of Cities, and Burgeſſes of Burroughs, they all are reſpectively to be elected by the Shires or Counties, Cities and Burroughs, by force of the Kings Writ *ex debito Juſtitiæ*. But the Commons of this preſent Parliament were not ſo choſen; but by force of a Writ in the name of the Keepers of the Liberties of *England*.

Thirdly, He ſaith, that at the return of the Writs the Parliament cannot begin but by the Royal preſence of the King, either in perſon, or by repreſentation. By repreſentation two waies: Either by a Guardian of *England* by Letters Patents under the Great Seal, when the King is in remote parts out of the Realm. Or by Commiſſion under the Great Seal of *England* to certain Lords of Parliament, repreſenting the Perſon of the King, he being within the Realm in reſpect of ſome infirmity. See Sir *Edward Cook* in his third Part of Inſtitutes of the High Court of Parliament concerning the beginnings of Parliaments, Page 6.) But this Parliament began without the Royal

Royal presence of the King, either in Person or by Representation.

Fourthly, That the substance of the Writs of Summons must continue in their original Essence without any alteration or addition, unless it be by Act of Parliament. (See the same Sir *Edward Cook* in his third Part of Institutes of the High Court of Parliament concerning Writs of Summons of Parliament, *Page* 10.) But how great an alteration and addition to the substance of the Writs of Summons is this, to issue them forth in the name of the Keepers of the Liberties of *England*, without the least authority of Parliament, which by the express Statute ought only to be issued forth in the Name of the King.

And therefore if there be any weight in Mr. *Prins* foresaid Argument to null a Parliament, because of the Kings Death who call'd it, in regard the Writs of Summons were issued forth in the Name of that King deceased, with whom by name the Members of Parliament were call'd to consult and advise, but now cannot: It will, I conceive, be no hard question to resolve, (and it were good Mr. *Prin* would undertake it without partiality or affection) Whether the Parliament doth not *ipso facto* fall void, and all the Acts of it, further than they shall be confirmed by a lawfull Parliament, which is not call'd by any Writs of the Kings at all; But only by Writs, as aforesaid, in the Name of the Keepers of the Liberties of *England* (and by those Writs, none but the Commons) with whom they are summoned to consult too about the businesses of a Commonwealth, (which these times have sufficiently taught us the meaning of) and not with the King about the arduous businesses of his Kingdoms.

These premised illegalities considered, in reference to this present Parliament (the legal Being and capacity, as premised, of the Long Parliament being supposed to be here totally waved) Whether is this a lawful Parliament, and capable to make legal and binding Acts? Or having been declared a lawful Parliament by an Act by themselves made since their Session with the Kings consent, Whether can the Kings consent make them such, though otherwise unlawful in their Call, Principle, and Foundation?

For

For I would put the case the King should *have* come in while *Oliver*, or *Richards* Parliaments had been sitting, (to which the Lords, as now, should have presented themselves without Writs of Summons) and his Majesty, under that constitution, should have consented to a Bill to grant them a lawful *Parliament*: Would that at all have made them so, under such a Constitution? Can that which is unlawful in it self, and contrary to the Fundamental Constitutions of the Nation be made lawful barely by the Kings Consent?

Which if it shall be pleaded in the affirmative (though I very much question whether any understanding Lawyer will venture his reputation on it) I shall desire then to be instructed in a better Argument to make good the lawful being and authority of the Long *Parliament*. For surely, if a Parliament be lawful meerly because of the Kings consent, passing an Act to that purpose, though otherwise utterly unlawful in its Call and Foundation: Then doubtless that Parliament is much more lawful, and in its legal being that was founded upon a lawful Call, and had the Kings consent to an Act to authorize it to continue till they dissolve themselves by an Act. And if that be still a lawful Parliament, then I am sure upon that account this can be none, nor no other, till that be legally dissolved.

To which there is this further to be added concerning the intentions generally of the whole Nation in reference to this Parl. by the best information I can gather: That it was never in the least meant that these should sit to pass Acts as a lawful Parl. (wch was only like to prove a snare to the people as other Parl. of the like nature, so call'd, have done through the disputableness & unwarrantableness of their Authority.) But only, that for the present necessity they might bear the face of Parliamentary Authority for preserving the Peace of the Nation till his Royal Majesty, that now is, might be happily restored, (the Kingdom panting after him as their only means of settlement) and so soon as that was effected then to dissolve in order to the sending forth his Majesties Royal Writs of Summons for calling a Parliament according to the ancient Custome and Fundamental Constitution, (the old Parliament being first legally dissolved)

dissolved) that so all things might return again into a legal and uncontrovertible way of proceedings, to the quiet of all mens minds, and satisfaction of the whole Kingdom, who are sufficiently weary of the mischiefs of irregular actings by illegal Authorities.

Conclusion.

IF the power of the Sword, or other arbitrary proceedings do not interpose to interrupt free debates, and the course of Law, and Justice: which the Author hopes there is now no cause to fear as formerly (all Estates and Degrees in the Nation having sufficiently seen the inconvenience, and tasted the smart of such unrighteous actings) he doubts not (upon a serious consideration of the foregoing Arguments, if men will lay aside passion and self Interest) but that right foundations will shortly again be restored, that knowing our ground-work to be sure and unquestionable; the Subjects of all sorts in the Kingdom may with all safety and cheerfulness submit too, and act under the lawful powers in being, every one sitting in *Peace* under his own Vine and Fig-tree, blessing the God of his Salvation: Which is daily the Authors earnest and most hearty prayer.

FINIS.

F132724
D 2137.2